

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. See 35 ILCS 130/3. (This is a GIL).

November 29, 1999

Dear Mr. Xxxxxx:

This letter is in response to your letter dated November 8, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

WE ARE AWARE OF THE NEW LAW THAT PROHIBITS OUR SELLING RE-IMPORTED MARLBORO CIGARETTES. HOWEVER, WE ARE ABOUT TO PURCHASE FROM EUROPE, MADE IN EUROPE, HAVE THE PRODUCT SHIPPED TO CHICAGO, STAMP THE CIGARETTES, AND SELL SAME TO RETAILERS THROUGHOUT THE STATE. THESE ARE ALL MARLBORO BRAND CIGARETTES. PHILLIP MORRIS HAS OPENED NEW MANUFACTURING FACILITIES IN EUROPE, AND WE ARE GOING TO PURCHASE THE BRAND AND SELL THEM IN ILLINOIS

U.S. CUSTOMS HAVE NO PROBLEM, AS WELL AS A.T.F.

WE ARE MAKING THE PURCHASE FROM SWITZERLAND, AND THE CIGARETTES ARE MARKED, 'FOR EXPORT ONLY' THERE IS NO REFERENCE TO U.S. MADE GOODS. THE HEALTH WARNING IS IN ENGLISH AND APPROVED FOR SALE IN THE U.S.

SO, WE WILL BE PURCHASING MARLBORO CIGARETTES, MADE IN SWITZERLAND, AND SELLING THEM IN ILLINOIS.

IT IS NO DIFFERENT THEN IF I WISH TO IMPORT ALL TYPE OF EUROPEAN MADE PRODUCTS, OR GERMAN MADE OR JAPAN MADE PRODUCTS.

MY REQUEST IS, THAT MY CUSTOMERS WOULD LIKE ME TO FURNISH THEM A LETTER THAT STATES, WE ARE WITHIN OUR LEGAL BOUNDERIES TO SELL IN ILLINOIS.

WOULD YOU BE SO KIND AS TO FAXING ME A SHORT LETTER STATING OUR RIGHT TO SELL.

Section 3 of the Cigarette Tax Act, which was recently amended, states, in part, as follows:

"No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or notice has been removed, mutilated, obliterated, or altered in any manner."

Section 290.185 of the Code of Federal Regulations, 27 CFR 290.185, regarding labels or notices of tobacco products and cigarette papers and tubes, states as follows:

"Every package of tobacco products shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words "Tax-exempt. For use outside U.S." or the words "U.S. Tax-exempt. For use outside U.S." except where a stamp, sticker, or notice required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed."

Without actually seeing the packaging of the cigarettes you intend to sell, the Department is unable to grant you a definite opinion as to whether stamping them with Illinois' cigarette tax stamps is legal. However, if the cigarette packaging does not violate the above provisions, as well as any other requirement imposed at 15 U.S.C. 1331 et seq., they can be stamped with Illinois' cigarette tax stamps.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

ST 99-0358-GIL

Page 3

November 29, 1999

f you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk

Enc.